

**TOWN OF KITTERY, MAINE
PLANNING BOARD MEETING
Council Chambers**

**APPROVED
April 9, 2015**

Meeting called to order: 6:00 p.m.

Board members present: Chair Ann Grinnell, Vice Chair Karen Kalmar, Secretary Deborah Driscoll Davis, Mark Alesse, David Lincoln, Robert Harris

Members absent: None

Staff present: Chris Di Matteo, Town Planner; Elena Piekut, Assistant Town Planner

Pledge of Allegiance

Minutes: March 26, 2015

Mr. Lincoln requested two additions and one change to the minutes, and Ms. Davis suggested an amendment to clarify the discussion of action items.

Ms. Davis moved to approve the minutes for the meeting of March 26, 2015 as amended.

Ms. Kalmar seconded.

Motion carried: 6-0-0

Public Comment: Ms. Grinnell opened the public comment period.

Richard Sparkowich of 22B Old Farm Road addressed the Board in regard to his application for a five-lot subdivision. Mr. Sparkowich referred to a vote on the Beatrice Lane project conducted February 12. He said the Planner recommended recertification of the high intensity soil survey and recertification of a wetland delineation that was done eight or nine years ago. Mr. Sparkowich was not able to address the issue at the time because a motion was on the floor and expressed his desire to address some of those comments and get clarification.

Chair Grinnell asked Mr. Sparkowich to hold his comments as the Board is unable to address projects currently under review during the public comment session. Mr. Di Matteo suggested that Mr. Sparkowich address his concern in writing.

The Board decided to hear Mr. Sparkowich by including an agenda item for that purpose at the April 23, 2015 meeting. Ms. Kalmar and Ms. Grinnell asked that Mr. Sparkowich provide his concern in writing prior to the meeting.

Ms. Grinnell closed the public comment section.

ITEM 1 – Bartlett Hill Multifamily Cluster Subdivision – Subdivision Preliminary Plan Review

Action: grant or deny preliminary approval. Owner and applicant Peter J. Paul, Trustee of AMP Realty Holdings, LLC, is requesting consideration of plans to develop a multi-family residential cluster subdivision. The approximately 18 acres parcel is located on a portion of Tax Map 28, Lot 14 with frontage along Fernald Road and Route 236, in the Residential – Suburban (R-S) Zone with portions in the Commercial (C-2) Zone and Resource Protection Overlay (OZ-RP) Zone. Agent is Tom Harmon, Civil Consultants.

Ms. Grinnell noted that two members have joined the Board since the project began and asked Mr. Harmon to provide a short presentation.

Mr. Harmon described many aspects of the proposal including:

- It consists of nine single-family dwellings in four buildings on four lots on an 18-acre piece of property with frontage on Route 236 and Fernald Road.
- The project was started approximately two years ago.
- A driveway was constructed onto the property “by some misunderstanding.”
- There has been some discussion about soils on the site and zoning revisions, and some postponements have occurred in waiting for zoning changes to take place.
- They have remapped the soils on the parcel to fit the zoning ordinance.
- Two pieces of the property in the Commercial Zone were previously subdivided and have been sold.
- The proposal is to divide the remaining land by creating four lots with nine single-family units—three duplexes and one triplex.
- The property is served by municipal water.
- This is developed as a cluster subdivision, therefore there will be “a great deal” of open space.
- After mapping soils, the applicant has concluded that ten units would be allowed.
- The road from Fernald Road has been shortened to 600 feet.
- Natural buffers will be retained for stormwater treatment.
- There is “a considerable amount of wetland” at the back of the property and the plans show all of the wetland buffers and setbacks to meet current regulations.
- They propose a 20-foot-wide road with two-foot shoulder, but the use of pedestrian ways is still up in the air and the applicant seeks feedback from the Planning Board.
- Electricity will be provided underground.
- A six-inch water line will run across Route 236 between the two commercial lots and into the development, and a hydrant will be located in the cul-de-sac.
- Grading plans are included which shows the buildings, which are two- and three-bedroom duplexes and a triplex with a two-car garage under the unit.
- The ordinance calls for a community septic, and they propose two systems, one to serve five units and the other four units.
- The proposed road is designed for stormwater on the western side to flow to a catch basin, then to a level spreader and into a natural buffer.
- The slopes of the site provide a challenge, and both the road and the homes will be cut into the hillside.
- Design details and erosion control documentation have been provided.

Mr. Harmon requested direction from the Board on pedestrian ways, whether that is a sidewalk or a path through the woods, and configuration of common and reserved open space.

Mr. Di Matteo noted the need for details on the proposed retaining wall, as suggested by the peer reviewer, and Mr. Harmon said they would be provided with the final plan.

Mr. Di Matteo asked Mr. Harmon to explain the change in soil survey results and the meaning of the letter provided by the soil scientist. Mr. Harmon explained that the Peru soil type previously mapped was taken from the 1970s York County Soil Survey, which was used at the sketch plan review phase. The Soil Suitability Guide describes Peru as “not good” for septic disposal. The Soil Conservation Service and High Intensity Soil Survey no longer uses Peru soils in this area. It was on the original map because the old system was used. The soil scientist remapped it and those soils are now mapped as the Dixfield type, “which is not included as a soil that is not accepted for septic disposal.”

Mr. Alesse asked whether Peru and Dixfield soils are the same thing.

Mr. Harmon said no, they are similar but have different characteristics.

Mr. Di Matteo explained his understanding that Peru soils still exist, but are now understood not to occur in southern Maine and were reclassified as Dixfield.

Ms. Davis asked about how Peru soils are not suitable for septic systems but Dixfield would be.

Mr. Di Matteo explained that that is a separate discussion, and the Board has not yet dealt with interpreting the suitability of soils not listed in the Soil Suitability Guide.

Mr. Alesse said he wants to ensure that this is more than just a name change, and a soil more suitable to septic has been discovered there, and Mr. Harmon provided more explanation.

Mr. Di Matteo asked whether there is an official document to refer to for this change.

Mr. Harmon explained that the whole County has not been remapped, but the Soil Conservation Service has provided this direction.

Mr. Di Matteo asked for resources from the Natural Resources Conservation Service to assist the Board.

Ms. Davis asked whether CMA could look at this issue.

Ms. Kalmar noted that CMA has said before that they're not soil scientists, but she too wants more information.

Ms. Kalmar asked whether the present sewer expansion will occur close to the proposed project.

Mr. Di Matteo explained that it only reaches to the other end of Fernald Road.

Ms. Kalmar explained that the plan was continued not to exceed 90 days from the December meeting and the Board should have taken action on March 12.

Mr. Di Matteo noted that even before December, the plan had been on hold for a long time, and that the Board should "start the clock over a little bit," provide notice to the Town of Eliot, and schedule another public hearing.

Ms. Kalmar said that since several Board members haven't participated in a public hearing, it makes procedural sense for the Board to hold another hearing.

Mr. Harmon asked the Board to discuss the options for providing a pedestrian way.

Discussion ensued concerning the standards for the road class, the Board's discretion to permit deviations from the standard in a cluster subdivision, and the Fire and Police Departments' recommendations. The Board concluded that they should hear a report from the Fire and Police Chiefs and Mr. Di Matteo agreed to check in with them.

Ms. Davis noted that the Police Department had requested a connection to the commercial lot on Route 236.

Mr. Di Matteo said the issue was addressed when those commercial lots were approved.

Ms. Kalmar said the Board had decided it would be disadvantageous for the residential subdivision.

Ms. Davis asked whether there is any way to move the septic system located farthest from the residences.

Mr. Harmon explained that it is the most appropriate place on the site and that another location would involve a greater slope and thus more disturbance.

Mr. Lincoln asked about the minimum allowed width plus shoulders for the road.

The Board referred to Table 1 in Title 16, Chapter 8, Article IV and discussed trip generation, and determined that the minimum for a Class II road is a 40-foot right-of-way, 20-foot paved travel way, a five-foot pedestrian way, and gravel shoulders.

Mr. Lincoln asked whether the proposal meets the standard as presented.

Mr. Harmon said it does.

Mr. Lincoln said he would be in favor of "squeezing it down a little bit" due to the low number of trips.

Ms. Davis explained her understanding that the Fire Chief advocated for a 60-foot right-of-way assuming that the private road may become public.

Ms. Grinnell asked what is planned for the rest of the property.

Mr. Harmon said nothing is planned, and that would only change if the lots are not sold, if the Town extends sewer service, and if the zoning changes to allow more units.

Owner and applicant Peter Paul explained that he intends for the road to be private and he is not planning any more units in the future.

Discussion turned to the necessity of sidewalks.

Ms. Kalmar does not favor creating extra impervious surface with low traffic volume, if there is still a safe place for people to walk.

Mr. Harris agreed with Ms. Kalmar.

Mr. Di Matteo asked the Chair to summarize the discussion on sidewalks and explained that the Police and Fire Departments will only be weighing in on road width for emergency access, not the need for sidewalks.

Ms. Davis, Mr. Alesse, and Ms. Grinnell, and Mr. Lincoln indicated their feelings that with a 20-foot-wide paved road, a sidewalk is not needed.

Ms. Kalmar asked that the open space proposal be addressed.

Mr. Di Matteo explained that the proposed open space configuration seems designed to provide some flexibility in regard to drainage structures and other utilities, but that an open space management plan would clear up some confusion as to how different areas are treated.

Mr. Harmon agreed and said he would provide a draft of a management plan for the next review.

Ms. Kalmar also noted the need to address cottontail habitat.

Ms. Davis said the Police Chief had asked about streetlights.

Ms. Kalmar pointed out that no exterior lighting is proposed other than on the buildings.

Mr. Harmon recalled a discussion and decision not to light the road.

Ms. Davis asked Mr. Di Matteo to confirm with the Police Chief.

Mr. Alesse asked about the no-cut buffer to the Kittery Land Trust property.

Mr. Harmon said that will be part of the management plan, that he has spoken with Executive Director Christine Bennett and will discuss further with Mr. Di Matteo.

Ms. Kalmar noted that there has been a concern about the name Bartlett Hill, and Mr. Di Matteo explained that the Fire Chief's concern is that although the road may not be named Bartlett Hill, the development name may conflict with an existing road in the Town.

Conservation Commission member Don Moore asked about the community leach fields and approval from the Maine Department of Health and Human Services (DHHS).

Mr. Harmon explained that DHHS approval is only required for larger, engineered systems, but the septic system will have to be designed to DHHS standards to secure a building permit.

Ms. Davis asked whether there will be a pre-tank and filter for each property and Mr. Harmon said there will. He also explained that they may meter the water for each unit and set aside payments as a "capital reserve account" for those septic systems.

Ms. Kalmar moved to accept the preliminary plan application as complete and schedule a public hearing.

Ms. Davis seconded and asked whether there should be a second site walk.

Motion carried: 6-0-0

The Board scheduled a public hearing for Thursday, May 14, 2015.
The Board scheduled a site walk for Wednesday, May 6, 2015 at 9:00 a.m.

ITEM 2 – 2 Chauncey Creek Road – Shoreland Development Plan Review

Action: accept or deny plan application, hold a public hearing, approve or deny development plan.
Owners and applicants Daniel O. and Linda P. Seaward are requesting consideration of their plan to add a screen porch and deck to an existing single family dwelling at 2 Chauncey Creek Road, Map 36, Lot 63 in the Kittery Point Village (R-KPV) and Shoreland Overlay (OZ-SL-250') Zones. Agent is Adam Pray, PLS of North Easterly Surveying, Inc.

Mr. Pray provided an overview of the project, including:

- It involves constructing an enclosed screen porch and deck.
- There is no new nonconformity and the 100-foot setback is met.
- Devegetated coverage is increased 0.1% to a total of 16.2%.

Mr. Di Matteo explained that the increase in devegetated coverage is the only reason the project is under Planning Board review.

Ms. Kalmar moved to accept the plan of Daniel O. and Linda P. Seaward, Tax Map 36 Lot 63 in Kittery Point Village.

Mr. Lincoln seconded.

Motion carried: 6-0-0

Ms. Grinnell opened the public hearing. No members of the public provided comment and Ms. Grinnell closed the public hearing.

Ms. Kalmar moved to grant conditional approval for the Shoreland Development Plan application dated March 19, 2015 for 2 Chauncey Creek Road (Tax Map 36, Lot 63) in the Kittery Point Village and Shoreland Overlay Zones, for owner/applicants Daniel O. and Linda P. Seaward.

Mr. Lincoln seconded

Ms. Davis questioned the side setback of less than 15 feet.

Mr. Pray explained that it is 1.5 feet from the side property line but the proposal is no more nonconforming.

Ms. Davis said that would normally go to the Board of Appeals but because the project is in the Shoreland Zone it is at the Planning Board.

Mr. Di Matteo explained that nothing is more nonconforming and the deck is within the existing condition of the retaining wall.

Ms. Grinnell asked the Board whether anyone had concerns about the Findings of Fact.

Motion carried: 6-0-0

Ms. Kalmar read the Findings of Fact:

WHEREAS: Daniel O. and Linda P. Seaward request approval to add a 403-square-foot deck and 22-square-foot steps to an existing single family dwelling at 2 Chauncey Creek Road, Tax Map 36, Lot 63, in the Kittery Point Village (R-KPV) and Shoreland Overlay (OZ-SL-250') Zones, hereinafter the "Development;" and

Pursuant to the Plan Review meetings conducted by the Town Planning Board as noted;

and pursuant to the Application and Plan and other documents considered to be a part of the plan review decision by the Town Planning Board in this Finding of Fact consisting of the following (hereinafter the “Plan”):

NOW THEREFORE, based on the entire record before the Town Planning Board and pursuant to the applicable standards in the Land Use and Development Code, the Town Planning Board makes the following factual findings and conclusions:

FINDINGS OF FACT

Chapter 16.3 LAND USE ZONE REGULATIONS

16.3.2.17 Shoreland Overlay Zone

D. Standards

1.d The total footprint of areas devegetated for structures, parking lots and other impervious surfaces, must not exceed twenty (20) percent of the lot area, including existing development...

The proposed deck/screen porch is located in the Shoreland Zone (OZ-SL-250'). 403 square feet of deck replaces 403 square feet of existing devegetated area, a gravel patio. New devegetated area created through the addition of steps totals 22 square feet. This results in an increase of total devegetated coverage of the 2.5-acre lot from 16.1% devegetated coverage to 16.2% devegetated coverage.

AND

2. b. Accessory patios or decks no larger than five hundred (500) square feet in area must be set back at least seventy-five (75) feet from the normal high water line of any water bodies, tributary streams, the upland edge of a coastal wetland, or the upland edge of a freshwater wetland.

The proposed deck is less than 500 square feet and is set back more than 100 feet from the high water line. This standard appears to have been met.

Vote: 6 in favor 0 against 0 abstaining

Chapter 16.7 GENERAL DEVELOPMENT REQUIREMENTS **Article III Nonconformance**

16.7.3.1 Prohibitions and Allowances

A. Except as otherwise provided in this Article, a nonconforming condition must not be permitted to become more nonconforming.

This is an existing conforming lot with a structure that is nonconforming to the side setback in the Kittery Point Village Zone. The proposed deck is not more-nonconforming. The requirement appears to be met.

Vote: 6 in favor 0 against 0 abstaining

16.7.3.6 Nonconforming Structures in Shoreland and Resource Protection Zones

16.7.3.6.1 Nonconforming Structure Expansion

A nonconforming structure may be added to or expanded, after obtaining Planning Board approval and a permit from the Code Enforcement Officer. Such addition or expansion must not increase the non-conformity of the structure and must be in accordance with the subparagraphs below.

A. After January 1, 1989, if any portion of a structure is less than the required setback from the normal high-water line of a water body or tributary stream or the upland edge of a wetland, that portion of the structure will not be permitted to expand, as measured in floor area or volume, by thirty percent (30%) or more during the lifetime of the structure.

B. If a replacement structure conforms to the requirements of Section 16.7.3.6.1.A and is less than the required setback from a water body, tributary stream or wetland, the replacement structure will not be permitted to expand if the original structure existing on January 1, 1989, has been expanded by 30% in floor area and volume since that date.

C. Whenever a new, enlarged or replacement foundation is constructed under a nonconforming structure, the structure and new foundation must be placed such that the setback requirement is met to the greatest practical extent as determined by the Planning Board, basing its decision on the criteria specified in Section 16.7.3.5.2 – Relocation, below. If the completed foundation does not extend beyond the exterior dimensions of the structure, except for expansion in conformity with Section 16.7.3.5.3, above, and the foundation does not cause the structure to be elevated by more than three (3) additional feet, as measured from the uphill side of the structure (from original ground level to the bottom of the first floor sill), it will not be considered to be an expansion of the structure.

A-C. The existing structure is nonconforming, but is located outside the required setback from the normal high water line. The proposed development does not increase nonconformity. These standards are not applicable.

Vote: 6 in favor 0 against 0 abstaining

Chapter 10 DEVELOPMENT PLAN APPLICATION AND REVIEW

Article X Shoreland Development Review

16.10.10.2 Procedure for Administering Permits

D. An Application will be approved or approved with conditions if the reviewing authority makes a positive finding based on the information presented. It must be demonstrated the proposed use will:

1. Maintain safe and healthful conditions;

The proposed construction of a deck and screen porch, with no water or sewer connections, does not pose a concern.

The proposed development does not appear to have an adverse impact. This standard appears to be met.

Vote: 6 in favor 0 against 0 abstaining

2. Not result in water pollution, erosion or sedimentation to surface waters;

All but 22 square feet of the proposed construction replaces an existing impervious gravel surface. Maine DEP Best Management practices will be followed for erosion and sedimentation control during site preparation and building construction. (see conditions #2 and #3) to avoid impact on adjacent surface waters. These conditions should be added to the plan.

The proposed development does not appear to have an adverse impact. With the conditions #2 and #3, this standard appears to be met.

Vote: 6 in favor 0 against 0 abstaining

3. Adequately provide for the disposal of all wastewater;

This standard is not applicable.

Vote: 6 in favor 0 against 0 abstaining

4. Not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat;

Finding: Maine DEP Best Management practices will be followed for erosion and sedimentation control during site preparation and building construction. (see conditions #2 and #3) to avoid impact on adjacent surface waters. These conditions should be added to the plan.

The proposed development does not appear to have an adverse impact. With conditions #2 and #3, this standard appears to be met.

Vote: 6 in favor 0 against 0 abstaining

5. *Conserve shore cover and visual, as well as actual, points of access to inland and coastal waters;*

The proposed development does not appear to have an adverse impact.

Vote: 6 in favor 0 against 0 abstaining

6. *Protect archaeological and historic resources;*

The proposed development does not appear to have an adverse impact

Vote: 6 in favor 0 against 0 abstaining

7. *Not adversely affect existing commercial fishing or maritime activities in a commercial fisheries/ maritime activities district;*

The proposed development does not appear to have an adverse impact

Vote: 6 in favor 0 against 0 abstaining

8. *Avoid problems associated with floodplain development and use;*

The proposed development does not appear to have an adverse impact.

Vote: 6 in favor 0 against 0 abstaining

9. *Is in conformance with the provisions of this Code;*

Finding: The proposed location of the deck, screen porch, and steps is no more nonconforming than what currently exists. The increase in devegetated area (0.1%) is negligible and within the limitations of the R-KPV and OZ-SL-250' Zones. The Board finds this standard appears to be met.

Vote: 6 in favor 0 against 0 abstaining

10. *Be recorded with the York County Registry of Deeds.*

Shoreland Development plans must be recorded with the York County Registry of Deeds prior to the issuance of a building permit. Plans must include waiver and conditions of approval, if applicable.

Vote: 6 in favor 0 against 0 abstaining

Based on the foregoing Findings, the Planning Board finds the applicant has satisfied each of the review standards for approval and, therefore, the Planning Board approves the Shoreland Development Plan Application of Daniel O. and Linda P. Seaward, owners and applicants, to add a deck, screen porch, and steps to an existing single family dwelling at 2 Chauncey Creek Road subject to any conditions and/or waivers, as follows:

Waivers: None

Conditions of Approval (to be included on final plan to be recorded):

1. No changes, erasures, modifications or revisions may be made to any Planning Board approved final plan. (Title 16.10.9.1.2)

2. Applicant/contractor will follow Maine DEP *Best Management Practices* for all work associated with site and building construction to ensure adequate erosion control and slope stabilization.
3. Prior to the commencement of grading and/or construction within a building envelope, as shown on the Plan, the owner and/or developer must stake all corners of the envelope. These markers must remain in place until the Code Enforcement Officer determines construction is completed and there is no danger of damage to areas that are, per Planning Board approval, to remain undisturbed.
4. All Notices to Applicant contained herein (Findings of Fact dated 4/9/2015).

The Planning Board authorizes the Planning Board Chair to sign the Final Plan and the Findings of Fact upon confirmation of compliance with any conditions of approval.

Vote of 6 in favor 0 against 0 abstaining

Per Title 16.6.2.A - An aggrieved party with legal standing may appeal a final decision of the Planning Board to the York County Superior Court in accordance with Maine Rules of Civil Procedures Section 80B, within forty-five (45) days from the date the decision by the Planning Board was rendered.

ITEM 3 – 100 Pepperrell Road – Shoreland Development Plan Review

Action: accept or deny plan application, hold a public hearing, approve or deny development plan.

Owners and applicants Jonathan King and James W. Stott are requesting consideration of their plan to remove the 20th-century additions to the John Bray house and connect new construction consisting of a main dwelling wing with attached garage, a guest wing, a summer house, and a deck and pool. 100 Pepperrell Road is located at Map 27, Lot 45 in the Kittery Point Village (R-KPV) and Shoreland Overlay (OZ-SL-250') Zones. Agent is Simon Jacobsen, Jacobsen Architecture, LLC.

Owner Jonathan King read a prepared statement of introduction.

Mr. Jacobsen provided an overview of the project and architectural plans, including:

- The Hoyt House's many uses over the years have resulted in a lack of maintenance, whereas the Bray House has received attention since 1950.
- They will remove the "insensitive" and economical additions from 1850 and 1950.
- The addition will be built around the Bray House without touching it, except with an "incision" glass link.
- The same amount of square footage being removed will be added, within 150 square feet.
- The current structure steps over the setbacks and the proposal is less nonconforming.
- The separate entrance and "interlocking pavilions" are in the Maine vernacular.
- The structure is expansive because it is intentionally designed for single-floor living.
- The goal is to make sure the Bray House lasts another 400 years.

Ms. Kalmar moved to accept the plan application for Jonathan King and James Stott at 100 Pepperrell Road, Map 27, Lot 45, Kittery Point Village and hold a public hearing.

Ms. Davis seconded.

Motion carried: 6-0-0

Ms. Grinnell opened the public hearing.

Sandra Rux of 103 Pepperrell Road addressed the Board, pointing out:

- This plan “destroys her view.”
- She objects “from a historical viewpoint,” as a historian and professional in the field.
- The house is on the National Register.
- There are several adverse affects, an adverse affect being defined as an alteration inconsistent with the Secretary of the Interior’s Standards for the Treatment of Historic Properties:
 - In order to put the Bray House back by itself they have to entirely reconstruct the east end and a large part of the west end.
 - The plan does not address how the Secretary of the Interior’s standards will be met.
 - There is a change in character of the property’s use or setting—the front of the house was previously used for gardens and building around it does nothing to restore its historical context.
 - The most harmful things are the deck and pool, particularly the large hardscape deck. The Bray house becomes a backdrop for a pool deck which is hardly in keeping with historical context.
 - The introduction of incompatible visual, atmospheric, or audible elements—the deck and the pool are incompatible as they are situated in this plan.
- Other concerns:
 - Septic, and whether there are three bedrooms or four.
 - Water runoff from the pool deck to the shore.
 - The Comprehensive Plan talks about preserving views and open space—people in the community walk by and stop and look at the view.
 - Changes the character of Kittery Point Village.

Deborah Martin of 97 Pepperrell Road also addressed the Board, noting:

- Numbers related to percentage of the lot built upon don’t work out.
- What does the 19.8% nonvegetative cover include?
- Very concerned about changing the character of the neighborhood.
- A little concerned about how many houses there are because it doesn’t look like a single-family home.

Ms. Grinnell closed the public hearing.

Ms. Davis asked the applicant to address the letter from Maine Historic Preservation Commission (MHPC) dated April 7, 2015.

Mr. Mark Johnson of Jacobsen Architecture said they would, and asked how the Board would like to prioritize MHPC’s comments, where some are related directly to the Bray House and some to the addition.

Ms. Kalmar asked about the “force of law” of the MHPC’s recommendations.

Mr. Di Matteo explained that the Commission was invited to comment as required by code, and the Board needs to make a positive finding on the protection of archaeological and historic features, so this was a logical step to gather information from the experts to give the Board some guidance on how to make a positive finding. He said that the burden is on the applicant to “sell” how the MHPC comments should apply and how the project protects natural, cultural, archaeological, and historic resources.

Mr. Johnson addressed the three MHPC comments regarding the Bray house and the twelve comments directed to the proposed additions, and read from the Secretary of the Interior’s Standards Design Guidance for Compatible New Additions to Historic Buildings. He said they

have considered and implemented that guidance. “We took design cues from the siding, the fenestration type, and the simple form and the module of the Bray house while respecting the massing and prominence that the house holds on the site. We did this by stepping in the back with the addition of the guest wing and only constraining the new addition to one story.” The net square footage of livable space is almost the same as what the new addition plus Bray house is. The Bray footprint of roughly 20 feet by 40 feet was used as a “constraining module” to set the sizes of the gable structures. The pool was located on top of the ground for minimal disturbance and to avoid blasting which would endanger the house.

Ms. Davis pointed out that 16.3.2.2.17 discusses conserving visual points of interest and she is concerned with the garages blocking the view of Pepperrell Cove. The Comprehensive Plan also identifies it as a scenic vista. She clarified that the original house is oriented toward the water. She asked whether there is a possibility of moving the septic system to the road side of the house in the interest of protecting the water.

Mr. Johnson said they are reducing the home from four to three bedrooms and cannot place the system in the front setback.

Ms. Davis asked about the air compressors and generators and their noise and visibility.

Mr. Johnson said they could hide them better and are investigating the possibility of geothermal energy.

Ms. Davis referred Mr. Johnson to page 66 of the Comprehensive Plan for information on scenic roads, and mentioned that metal roofs may be dealt with in the Code.

Ms. Kalmar asked about whether the applicant has considered the strong recommendation from MHPC to conduct a Phase 1 Archaeological Survey.

Mr. Johnson responded that they will discuss it.

Mr. Alesse is concerned about the assessment of the Hoyt House and thinks it could be saved.

Mr. Johnson responded that the owners are looking to donate the Hoyt House, and that it competes with the Bray House and is not structurally sound. They are focusing on what is actually on the National Register.

Ms. Grinnell asked for confirmation that the Hoyt House is not on the Historic Register.

Mr. Johnson said it is not.

Mr. Lincoln asked whether the applicant is making any changes based on the MHPC observations.

Mr. Johnson said they would look to the Board for guidance, but reminded the Board that the recommendations are not binding.

Mr. Di Matteo described them as like a peer review.

Mr. Jacobsen added that they take the comments seriously and need time to consider them.

Mr. Lincoln added that the Bray house appears on the Register because of its architecture and the fact that it was in a settlement. The MHPC comments also talk about the historic character of the landscape. The proposal is significantly different visually than what is there now. He sees the recommendation for an archaeological survey as critical. Not to do that would be in contradiction with what everyone is agreeing is an important historic site.

Mr. Johnson said the owners agreed to conduct the survey.

Mr. Lincoln referred also to the “removal of distinctive features” that should be avoided, the “essential form and integrity” that should be maintained, and how a pool and deck “will completely change the undeveloped character.” He suggested that the applicant refer to the Comprehensive Plan, pages 66, 226, 227, 214, 215, 217, 218, and 219 to determine that they are following its direction. He asked about the plan for the inside of the house, which the MHPC recommended preserving.

Mr. Johnson reiterated that the plaster and beams will be preserved, there will be hidden LED lighting rather than recessed lighting, and the paneling will be restored as necessary. The two upper rooms are bedrooms and will be reconfigured to one bedroom.

Mr. Lincoln confirmed that there will be three bedrooms in the entire structure.

Ms. Davis asked whether there will be more than one kitchen, and Mr. Johnson said there will be two.

Ms. Grinnell expressed her desire to see the Hoyt House donated and moved off site, and Mr. Johnson concurred that that is the desire of the applicant.

Ms. Kalmar reviewed the staff notes, asking about:

- Septic and test pits, which Mr. Johnson said will be addressed.
- Meeting dimensional requirements, and that she understood that not meeting the setback was necessary to separate the wings.
- Removal of trees and the standards of 16.9.2.2.

Ms. Kalmar explained that 16.9.2.2.A says cutting for authorized uses is allowed, and as a single family dwelling the use is allowed.

Mr. Di Matteo explained the applicability of the standards regarding clearing no more than 25% of the lot or 10,000 square feet, whichever is greater. The allowance to take 40% by selective cutting in ten years is part of that clearing, because if not the whole lot could eventually be cleared. The lot has been cleared over the years and has a legally nonconforming clearing, so to move existing trees is not allowed. The site is already “maxed out.” It is similar to the devegetated area standard. He reported that the State concurs with that interpretation.

Mr. Johnson proposed mitigating the removal of six trees by planting elsewhere, an opportunity to reestablish tree growth within the 100-foot setback from the water.

Ms. Kalmar addressed the question of whether the proposal meets the definition of a dwelling unit in the Shoreland Zone, and expressed that it meets the definition because it is intended “for only one family at a time.”

Mr. Jacobsen added that by the building code, because the entire space is connected, enclosed, heated, and cooled as one, it is considered one dwelling unit.

Ms. Kalmar suggested that more information will be gathered and the Board needs more information from the archaeological survey.

Mr. Di Matteo explained that if such information might change the decisions of the Board, they should wait for it, otherwise gathering the information could be a condition of approval. He suggested there should be more information as to how the plan considers the comments of the MHPC, as well as scenarios for addressing the clearing of trees and area devegetated by the proposed structures. The Board also mentioned conducting a site walk.

Ms. Kalmar added that she wants to see the effect of the MHPC comments on the plan, and Ms. Davis noted that the Comprehensive Plan must be taken into consideration as well.

Mr. Lincoln moved to grant conditional approval for the Shoreland Development Plan application dated March 19, 2015 for 100 Pepperrell Road (Tax Map 27, Lot 45) in the Kittery Point Village and Shoreland Overlay Zones, for owners and applicants Jonathan King and James W. Stott.

Mr. Lincoln suggested that the Board determine and spell out conditions.

Ms. Davis expressed her concern that without additional information, determining conditions is not possible, and the only option is to continue.

Mr. Johnson explained the Phase 1 archaeological survey would only be educational, not prevent the development.

Discussion ensued concerning procedure.

Mr. Harris seconded.

The Board discussed conditions and developed a list:

1. Phase 1 Archaeological Survey
2. Addressing Maine Historic Preservation Commission recommendations
3. Addressing 16.3.2.17 and the Comprehensive Plan in regard to conserving visual points of access
4. Addressing staff note six and 16.9.2.2., and approval of a tree removal plan
5. Addressing meeting dimensional requirements of 16.7.3.5.5

Ms. Davis expressed her desire to address metal roofs because they are not in keeping with the character of Kittery Point Village.

Mr. Lincoln finds that continuing the appearance of Kittery Point Village is not a requirement of the Board and there is no substance in the code to address that, though it may be an aspect of the Comprehensive Plan's guidance.

Ms. Grinnell asked Mr. Jacobsen to address the use of metal roofs in the context of the MHPC comments and he said the aesthetic of the building isn't determined by the material of the roof, so they would be willing to match the Bray house or discuss colors and finishes.

Ms. Kalmar also does not find a place in the code where metal roofs affect character.

6. Minimizing noise from the compressor, update on use of geothermal

Further discussion about metal roofs ensued.

Mr. Di Matteo asked the Board for clarification that all items discussed are conditional for final plan approval and the expectation is that staff address them.

Ms. Grinnell confirmed that is the motion and expectation.

Mr. Lincoln asked about having a site walk.

Mr. Di Matteo explained that there is no opportunity for a site walk after the plan is approved.

Mr. Lincoln withdrew the motion.

Ms. Grinnell added an update on the Hoyt house donation to the list.

Mr. Harris agreed.

Withdrawal carried: 6-0-0

Ms. Kalmar moved to continue for no longer than 90 days from April 9, 2015 the review of the request of owners and applicants Jonathan King and James W. Stott for consideration of a Shoreland Development Plan located at 100 Pepperrell Road (Tax Map 27, Lot 45) and schedule a public hearing for May 14, 2015.

Mark Alesse seconded.

Motion carried: 6-0-0

The Board scheduled a site walk for Wednesday, May 6, 2015 at 8:00 a.m.

ITEM 4 – Board Member Items

Ms. Davis addressed the code amendments recommended at the previous meeting regarding guaranties and wants to confirm that it won't include houses.

Mr. Di Matteo explained the intent of the amendment is to guarantee infrastructure improvements, for example in a subdivision including a road necessary to access the lots.

Mr. Lincoln suggested that the amendment state it is for infrastructure.

Mr. Di Matteo explained it could also apply to common space.

Discussion of Maine Municipal Association training.

Mr. Lincoln followed up on a discussion from the Board Retreat about working with the Economic Development Committee and longer-range planning. He found in their January 6 report that the Committee also is interested in engaging with the Planning Board to gain knowledge of growth limitations and what the Planning Board might see as impediments to business growth.

Ms. Davis suggested that the Board invite the Committee to a meeting or workshop.

Ms. Kalmar will contact Committee Chair George Dow for a written summary.

Ms. Davis moved to adjourn.

Mr. Alesse seconded.

Motion carried: 6-0-0.

The Kittery Planning Board meeting of April 9, 2015 adjourned at 9:15 p.m.

Submitted by Elena Piekut, Assistant Town Planner, April 15, 2015.